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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,479	07/28/2003	Sergey Brin	0026-0149	7460
44989 7590 09/10/2009 HARRITY & HARRITY, LLP 11350 Random Hills Road SUITE 600 FAIRFAX, VA 22030				
			EXAMINER HARPER, LEON JONATHAN	
			ART UNIT 2166	PAPER NUMBER
			MAIL DATE 09/10/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/629,479

Applicant(s)

BRIN ET AL.

Examiner

LEON HARPER

Art Unit

2166

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 7-45, 49, 51-57, 63-74 and 77-89.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Hosain T Alam/
Supervisory Patent Examiner, Art Unit 2166

continuation of #11 applicants arguments are not Persuasive. In response to applicant's argument that Applicants respectfully remind the Examiner that the Examiner must address all arguments which have not already been responded to in the statement of the rejection. Where Applicants traverse any rejection, the Examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it. See M.P.E.P. § 707.07(f). For example, with respect to independent claim 37, Applicants argued that BASU and NELSON do not disclose or suggest broadening, by a processor of a computer system, one of search terms based on a plurality of user-selected operators to produce a broadened search query, where broadening the one of the search terms comprises broadening the one of the search terms to an extent determined by a number of times the same operator is repeated..., as previously recited in claim 37 (see Amendment filed February 17, 2009, pp. 18-19). In response, the Examiner merely states that one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references, without any explanation as to what element(s) of BASU or NELSON allegedly correspond to "the same operator" or explaining which section of BASU or NELSON specifically correspond to "broadening the one of the search terms to an extent determined by a number of times the same operator is..." (final Office Action, pp. 16-17). If this rejection is maintained, Applicants respectfully request that the Examiner address the substance of Applicant's arguments. For example, the Examiner should specifically explain which sections of BASU or NELSON disclose the above-noted feature of claim 37 as well as how the Examiner is construing such cited sections of the references to correspond to the above-noted feature of claim 37. Furthermore, if the Examiner is relying on a combination of BASU and NELSON, the Examiner should provide a rationale as to how the teachings of the two references are combined and how such a combination would disclose the above-noted feature of claim 37, rather than merely stating an alleged benefit of the combination, examiner responds that the claim limitation in question reads in part "where broadening the one of the search terms comprises broadening the one of the search terms to an extent determined by a number of times the same operator is repeated" broadly speaking the broadening is occurring to an extent the number of times an operator is repeated. The key term in the broad interpretation is the term "extent" (i.e. the scope or how far we broaden the term) is all determined by the number of times an operator is repeated starting at zero since if the operator is not listed the search has not scope or does not extend to that operator. So as long as the cited references disclose operators that change the scope of a search the claim limitation has been met.

In response to applicant's argument that With respect to independent claim 85, Applicants pointed out that the Examiner did not address the features recited in claim 85 and further did not address Applicant's arguments that BASU and NELSON do not disclose or suggest receiving, by a network interface or by an output device of a computer system, a selection of a subset of a set of checkboxes (presented in conjunction with a set of broadened search terms) to select a subset of the broadened search terms, as previously recited in claim 85 (see Amendment filed February 17, 2009, pp. 26-27). Applicants respectfully request that the Examiner address Applicants' argument with respect to claim 85, as required by M.P.E.P. § 707.07(f), examiner responds that Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. Interpretation of Claims-Broadest Reasonable Interpretation: During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). In this case the user makes the selection of search terms to be used in the expansion or broadening since the checkboxes as claimed are presented along with the search terms. As disclosed in the Prior art there are terms to be selected and weighting (See paragraph 0010 of Basu).

In response to applicant's argument that At the outset, Applicants respectfully remind the Examiner that all words in a claim I must be considered in judging the patentability of that claim against the cited references. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). See M.P.E.P. 2143.03. Examiner responds that Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore while every word in the claim must be considered but the definition does not necessarily come from the specification unless applicant is acting as their own lexicographer.

In response to applicant's arguments For example, BASU and NELSON do not disclose or suggest broadening, using one or more processors associated with a computer system, one of the search terms based on a plurality of user-selected operators to produce a broadened search query, where broadening the one of the search terms comprises broadening the one of the search terms to an extent determined by a number of times a same operator is repeated, as recited in claim 37. The Examiner admits that BASU does not disclose this feature and relies on cot. 7, lines 15-25 of NELSON for allegedly disclosing this feature (final Office Action, p. 3). Applicants disagree with the Examiner's interpretation of NELSON. Assuming that the Examiner is relying on the tokens as allegedly corresponding to an operator, as recited in claim 37 (a point that Applicants do not concede), this section of NELSON does not disclose or suggest that one of the tokens is repeated, let alone that a broadening of one of the search terms is done to an extent determined by a number of times a token is repeated, as would be required by claim 37 based on the Examiner's interpretation & NELSON. Therefore, this section of NELSON does not disclose or suggest broadening, using one or more processors associated with a computer system, one of the search terms based on a plurality of user-selected examiner responds that the claim limitation in question reads in part "where broadening the one of the search terms comprises broadening the one of the search terms to an extent determined by a number of times the same operator is repeated" broadly speaking the broadening is occurring to an extent the number of times an operator is repeated. The key term in the broad interpretation is the term "extent" (i.e. the scope or how far we broaden the term) is all determined by the number of times an operator is repeated starting at zero since if the operator is not listed the search has not scope or does not extend to that operator. So as long as the cited references disclose operators that change the scope of a search the claim limitation has been met.

In response to applicant's argument that Applicants submit that the Examiner's allegation is clearly insufficient for establishing a prima facie case of obviousness with respect to claim 37. The Examiner's statement is merely a conclusory statement of an alleged benefit of the combination of BASU and NELSON. Such conclusory statements have been repeatedly held to be insufficient for establishing an prima facie case of obviousness. In this respect, Applicants rely upon KSR International Co. v. Teleflex Inc., 550 U.S. 398, 127 S. Ct. 1727, 82 U.S.P.Q.2d 1385 (2007) (citing In re Kalm, 441 F.3d 977, 988 (Fed. Cir. 2006)), where it was held that rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. In this case, no such articulated reasoning has been provided with respect to claim 37

examiner submits that The rationale to support a conclusion that the claim would have been obvious is that "a person of ordinary skill in the art would have been motivated to combine the prior art to achieve the claimed invention and that there would have been a reasonable expectation of success." *DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1360, 80 USPQ2d 1641, 1645 (Fed. Cir. 2006). The Courts have made clear that the teaching, suggestion, or motivation test is flexible and an explicit suggestion to combine the prior art is not necessary. The motivation to combine may be implicit and may be found in the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved. *Id.* [A]n implicit motivation to combine exists not only when a suggestion may be gleaned from the prior art as a whole, but when the improvement is technology-independent and the combination of references results in a product or process that is more desirable, for example because it is stronger, cheaper, cleaner, faster, lighter, smaller, more durable, or more efficient. Because the desire to enhance commercial opportunities by improving a product or process is universal and even commonsensical we have held that there exists in these situations a motivation to combine prior art references even absent any hint of suggestion in the references themselves. In such situations, the proper question is whether the ordinary artisan possesses knowledge and skills rendering him capable of combining the prior art references." *Id.* at 1368, 80 USPQ2d at 1651.

In response to applicant's argument that This section of BASU discloses that a query expansion operation may be defined by the user or developed by the system through user interaction. The query to sub-query expansion may be one-to-one, one-to-many, many-to-one, or many-to-many. An example of a many-to-many query is shown in Fig. 4 of BASU, which depicts the query "outdoor" mapped to the sub-queries "trees" and "sky" and the query "beach" mapped to sub-queries "sky" and "sand." This section of BASU does not disclose or suggest excluding one of the broadened search terms from the search query. Rather, this section of BASU discloses mapping a search term to an additional search term, mapping a search term to multiple additional search terms, mapping examiner submits that Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. Interpretation of Claims-Broadest Reasonable Interpretation: During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In *re Prater*, 162 USPQ 541,550-51 (CCPA 1969). In this case excluding a terms simply means not using or removing the term from the search the search query in the prior art references does not have to use the terms from the sub-queries. Moreover the queries are based on both subjective and objective interpretations based on learned user preferences and subjective definitions resulting in possible exclusion of terms (See paragraph 0033 of BASU).

In response to applicant's argument that For example, BASU and NELSON do not disclose or suggest presenting, using a network interface associated with a computer system, a set of broadened search terms (obtained based on a received search term) as a set of corresponding hyperlinks in a user interface, as recited in claim 80. The Examiner appears to rely on paragraphs [0033] and [0038] of BASU for allegedly disclosing this feature (final Office Action, p. 11). Applicants disagree with the Examiner's interpretation of BASU examiner submits that paragraph 0048 of BASU further discloses that representations may be visual, motion or audio.